IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.30026 of 1998

Dated: 23-04-2007

Between:

Sri Venkatrama Oil Industries
rep. by its P.R.O. B.A. Ramaiah,
s/o late B. Sathi Raju,
r/o Vetlapalem village,
Samalkot,
East Godavari District.

... Petitioner

and

1. The Additional Commissioner,
   Industries and Special Authority,
   Land Acquisition,
   Steel Plant and A.P.I.I.C. Ltd.,
   Visakhapatnam and another.

... Respondents

ORDER:

This writ petition is filed seeking a *mandamus* to declare the action of respondents is proposing to acquire the land belonging to petitioner in Sy.Nos.282/1 and 282/2 in Bheemavaram village, as illegal and arbitrary and consequently declare that the notification under Section 4(1) and Section 6 of the Land Acquisition Act, 1894 (for short, 'the Act') in

Ref.SDC/LA/ APIIC/29/ 96, dated 31-08-1997 as null and void.

2. Facts, in brief, are: Petitioner, an oil industry, had purchased the land in an extent of Acs.2-10 cents in Sy.No.282/1 and 282/2 in Bheemavaram village at the factory premises at Samalkota for the purpose of treatment of the industrial effluents and waste as per the norms of the Pollution Control Board and the same is being utilized for that purpose and the said waste is being converted into agriculture manure and fertilizer after treatment of the same, which is being sold to agriculturists. The Andhra Pradesh Industrial Infrastructure Corporation Ltd., proposed to acquire the land in question for development of industries. Petitioner sent a letter dated 28-09-1996, to the respondent requesting to drop the proposal for acquisition of the land stating that the land is essential for its manufacturing activities. Petitioner also sent letters dated 29-04-1997 and 03-05-1997 requesting the respondent authorities to exempt the land in question from acquisition stating that it is a medium scale industry functioning since 17 years and earning valuable foreign exchange.

3. The grievance of petitioner is that inspite of sending letters and objections, respondents without issuing any notice or opportunity shown the land in question as if it belongs to K. Rammurthy, E. Ramakrishna, M. Papa Rao and M. Venkata Rao and initiated proceedings under the Act.

4. A detailed counter affidavit is filed on behalf of second respondent, for which a reply affidavit is also filed on behalf of petitioner.

5. Heard learned counsel for the parties.

6. Having heard both the learned counsel and upon perusing the record, it is evident that though there was absolutely no urgency the authorities have invoked sub-section (4) of Section 71 of the Act and

dispensed with the enquiry as contemplated under Section 5-A of the Act. In fact, in a case of this nature, particularly when there is no urgency, it is always desirable that the authorities shall hold an enquiry as provided for under Section 5-A of the Act and come to the conclusion as to whether the land in question is really required or it caused any hardship to the petitioner.

7. In that view of the matter, I deem it appropriate to dispose of the writ petition with a direction to respondents to hold an enquiry as provided for under Section 5-A of the Act. It is needless to observe that petitioner may put forth all its contentions before the Land Acquisition Officer, who holds an enquiry under Section 5-A of the Act. The said exercise shall be completed at the earliest, preferably within a period of six weeks from the date of receipt of a copy of this order.

8. Accordingly, the writ petition is disposed of. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.23-04-2007
GLV